

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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| IN RE:<br><br>ARBROS COMMUNICATIONS<br>LICENSING COMPANY CENTRAL, L.L.C. | DOCKET NOS. TCU-01-1<br>WRU-01-13-3524 |
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**ORDER APPROVING APPLICATION AND GRANTING WAIVERS**

(Issued March 26, 2001)

On February 13, 2001, ARBROS Communications Licensing Company Central, L.L.C. (ARBROS), filed an application for issuance of a certificate of public convenience and necessity, pursuant to Iowa Code § 476.29 (2001), stating its intention to provide resold and facilities-based local telecommunications services in Iowa. The application has been identified as Docket No. TCU-01-1. According to its application, ARBROS will initially provide high-speed data transmission services, but requests authority to provide the full range of local exchange and interexchange services to permit flexibility in the expansion of its service offerings. Tariffs are not required for the high-speed data transmission services. According to its application, ARBROS intends to offer service initially in the service area of all incumbent local exchange carriers. ARBROS filed proposed tariffs with its application that listed the exchanges where it would be offering service. ARBROS has withdrawn those proposed tariffs.

Iowa Code § 476.29(2) (2001) provides that the local exchange carrier shall not be denied a certificate if the Board finds that the applicant "possesses the technical, financial, and managerial ability to provide the service it proposes to render and the board finds the service is consistent with the public interest." The Board has reviewed ARBROS' application and finds the necessary technical, financial, and managerial ability to provide local exchange service has been demonstrated. The Board will therefore approve ARBROS' application. Since ARBROS does not intend to provide local exchange services at this time, it does not need a certificate. Before ARBROS provides exchange services in Iowa, it must file proposed tariffs and local exchange service and service area maps or a statement of concurrence in the maps of incumbent local exchange carriers for approval by the Board.

Additionally, ARBROS requests waivers of 199 IAC 16.5(2), 18.2, and 22.3(1). The waiver requests have been identified as Docket No. WRU-01-13-3524.

ARBROS requested a waiver of 199 IAC 16.5(2), which requires it to use a prescribed system of accounts, stating it employs an accounting system in accordance with generally accepted accounting principles (GAAP). The Board will grant this waiver, since records kept in accordance with GAAP accounting are acceptable for a competitive local exchange carrier.

ARBROS requested the Board waive 199 IAC 18.2. The Board will grant this waiver based upon the statement of ARBROS that its records will be made available to the Board upon request.

ARBROS requested the Board waive 199 IAC 22.3(1), requiring it to independently publish a directory. ARBROS is unlikely to have sufficient customers to require it to publish a directory, so the Board will waive the rule. ARBROS has stated that when it begins providing exchange services it will make arrangements to have its customer listings published in the local directory.

Rule 199 IAC 1.3 states that the Board may grant a waiver if it finds, based upon clear and convincing evidence, that the application of the rule would pose an undue hardship, would not prejudice the substantial legal rights of any person, the provisions waived are not specifically mandated by statute, and substantially equal protection of public health, safety, and welfare will be afforded after the waiver. The Board has considered the waiver requests described above and finds that the waivers meet the four criteria of the rule and the evidence in support of the waivers is clear and convincing.

Adherence to these three rules would be an undue hardship on a competitive telecommunications company just beginning to do business in Iowa. It would be an undue hardship for such companies to keep a separate set of books just for Iowa, to maintain a separate office in Iowa, and to publish a directory for just their customers. The Board finds there are no substantial legal rights of any person affected by these waivers and there is no statute that specifically mandates the actions waived. Additionally, the Board finds that there will be substantial equal protection for health, safety, and welfare provided since the actions waived will be completed under different circumstances.

ARBROS does not need a certificate and tariffs to provide high-speed data transmission services that are not exchange services in Iowa. Before ARBROS can offer exchange services, it must file a proposed tariff that includes the terms, conditions, and rates for local exchange service and maps or concurrence in maps for the areas where service will be offered. Upon approval of these items, the Board will issue ARBROS a certificate to provide local exchange service.

**IT IS THEREFORE ORDERED:**

1. The application for a certificate of public convenience and necessity filed by ARBROS Communications Licensing Company Central, L.L.C., on February 13, 2001, is approved, subject to the requirements that follow.
2. Before ARBROS Communications Licensing Company Central, L.L.C. begins providing local exchange services, it must either adopt the local exchange and service area maps of the incumbent local exchange carrier, or file its own maps for the exchanges where it intends to provide exchange services.
3. Before ARBROS Communications Licensing Company Central, L.L.C., begins providing local exchange services, it must file proposed tariffs with the Board indicating it is ready to provide local exchange service in Iowa and give notice to all affected local exchange carriers. Upon approval of tariffs to reflect the prices, terms, and conditions of local exchange service, the Board will issue a certificate of public convenience and necessity allowing ARBROS Communications Licensing Company Central, L.L.C., to provide local exchange service in Iowa.

4. The request for waivers of 199 IAC 16.5(2), 18.2, and 22.3(1) is granted.

**UTILITIES BOARD**

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Judi K. Cooper  
Acting Executive Secretary

/s/ Diane Munns

Dated at Des Moines, Iowa, this 26<sup>th</sup> day of March, 2001.